

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GOOD TECHNOLOGY CORPORATION and)
GOOD TECHNOLOGY SOFTWARE, INC.,)
Plaintiff,)
v.)
MOBILEIRON, INC.,)
Defendant.)

Case No. 5:12-cv-05826-PSG

**OMNIBUS ORDER RE: MOTIONS
TO SEAL****(Re: Docket Nos. 186, 199, 207, 216)**

Before the court are four administrative motions to seal several documents. “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’”¹ Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.”² Parties seeking to seal judicial records relating to dispositive motions bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure.³

¹ *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)).

² *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

³ *Id.* at 1178-79.

1 However, “while protecting the public’s interest in access to the courts, we must remain
 2 mindful of the parties’ right to access those same courts upon terms which will not unduly harm
 3 their competitive interest.”⁴ Records attached to nondispositive motions therefore are not subject
 4 to the strong presumption of access.⁵ Because the documents attached to nondispositive motions
 5 “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving
 6 to seal must meet the lower “good cause” standard of Rule 26(c).⁶ As with dispositive motions, the
 7 standard applicable to nondispositive motions requires a “particularized showing”⁷ that “specific
 8 prejudice or harm will result” if the information is disclosed.⁸ “Broad allegations of harm,
 9 unsubstantiated by specific examples of articulated reasoning” will not suffice.⁹ A protective order
 10 sealing the documents during discovery may reflect the court’s previous determination that good
 11 cause exists to keep the documents sealed,¹⁰ but a blanket protective order that allows the parties to
 12 designate confidential documents does not provide sufficient judicial scrutiny to determine whether
 13 each particular document should remain sealed.¹¹

14 In addition to making particularized showings of good cause, parties moving to seal
 15 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to
 16 Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document

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 19 ⁴ *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013).

20 ⁵ *See id.* at 1180.

21 ⁶ *Id.* at 1179 (internal quotations and citations omitted).

22 ⁷ *Id.*

23 ⁸ *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002);
 24 *see Fed. R. Civ. P. 26(c).*

25 ⁹ *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

26 ¹⁰ *See Kamakana*, 447 F.3d at 1179-80.

27 ¹¹ *See Civ. L.R. 79-5(d)(1)(A)* (“Reference to a stipulation or protective order that allows a party to
 28 designate certain documents as confidential is not sufficient to establish that a document, or
 portions thereof, are sealable.”).

is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).”¹² “Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.”¹³

With these standards in mind, the court rules on the instant motions as follows:

<u>Motion to Seal</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reason/Explanation</u>
186	Exhibit C to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
186	Exhibit F to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
186	Exhibit J to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
186	Exhibit K to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
186	Exhibit L to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).

¹² Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d).

¹³ Civ. L.R. 79-5(e)(1).

			5(d)(1)(A). If non-party Computer Associates, Inc. seeks to seal this exhibit, it may do so by filing a motion for reconsideration. <i>See</i> Docket No. 189 at 1.
186	Exhibit M to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information.
186	Exhibit N to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information.
186	Exhibit P to the Declaration of Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
186	Exhibit Q to the Declaration of Joel Stonedale	SEALED	Narrowly tailored to confidential business information.
199	Exhibit A to the Declaration of Lillian J. Mao	Designations at Docket No. 199-6, Exhibit A at 6:22-7:8 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
199	Exhibit B to the Declaration of Lillian J. Mao	UNSEALED	Not narrowly tailored to confidential business information.
199	Exhibit C to the Declaration of Lillian J. Mao	SEALED	Narrowly tailored to confidential business information.
199	Exhibit F to the Declaration of Lillian J. Mao	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 1 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 2 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.

1	199	Exhibit 3 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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3	199	Exhibit 4 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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5	199	Exhibit 5 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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7	199	Exhibit 8 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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9	199	Exhibit 9 to the Declaration of Glen Liu	UNSEALED	Not narrowly tailored to confidential business information.
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11	199	Exhibit 10 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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13	199	Exhibit 11 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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15	199	Exhibit 12 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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17	199	Exhibit 13 to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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19	199	Exhibit 14 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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21	199	Exhibit 16 to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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23	199	Exhibit 19 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
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25	199	Exhibit 20 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business
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			information.
199	Exhibit 22 to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
199	Exhibit 24 to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
199	Exhibit 26 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 27 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 28 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 29 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 30 to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
199	Exhibit 31 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 32 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	Exhibit 33 to the Declaration of Glen Liu	SEALED	Narrowly tailored to confidential business information.
199	MobileIron, Inc.'s Motion for Summary Judgment on Lanham Act and Unfair Competition Claims	Designations in yellow at Docket No. 199-5 at 1:15-22 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
199	MobileIron's Motion for	Designations in yellow at Docket	Only sealed portions

	Summary Judgment on Good's Lost Profits Damages	No. 199-8 at 1:8, 1:19, 1:26, 5:15-16, 5:18-26; all figures designated in yellow on page 6 and text designated in yellow at 6:4, designations in yellow at 6:25-26; all designations in yellow on pages 7-10; all figures designed in yellow on pages 11-12 and text designated in yellow at 12:18-19, designations in yellow at 12:23; all designations in yellow on pages 13-14; designations in yellow at 15:1-6; all designations in yellow on pages 16-20; designations in yellow at 21:2-4, 21:12, 21:15, 21:18-20, 21:22-28; and all designations in yellow on page 22 SEALED; all other designations UNSEALED.	narrowly tailored to confidential business information.
207	Plaintiffs' Opposition to MobileIron's Motion to Strike Portions of Good's Expert Report	All designations in yellow at Docket No. 207-3 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
216	Exhibit A to the Declaration of Will Melehani	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
216	MobileIron's Reply in Support of Motion to Strike	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).

SO ORDERED.

Dated: April 9, 2015


 PAUL S. GREWAL
 United States Magistrate Judge